

SECOND REGULAR SESSION

HOUSE BILL NO. 2315

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BAHR.

5926H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 160.570 and 161.096, RSMo, and to enact in lieu thereof three new sections relating to statewide testing.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 160.570 and 161.096, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 160.570, 160.571, and 161.096, to read as
3 follows:

160.570. 1. Nothing in this section or section 105.1209 shall be construed to affect or
2 limit any state agency's authority regarding professional registration, licensing or issuance of
3 professional certificates, nor shall this section be construed to limit or affect the authority of the
4 state board of education to examine applicants and issue high school equivalency certificates.

5 2. The school board of each school district shall establish a written policy on student
6 participation in statewide assessments. The policy shall be provided to each student and the
7 parent, guardian or other person responsible for every student under eighteen years of age at the
8 beginning of each school year and a copy of the policy shall be maintained in the district office
9 and shall be available for viewing by the public during business hours of the district office. A
10 school board may establish a policy designed to encourage students to give their best efforts on
11 each portion of any statewide assessment established pursuant to section 160.518 which may
12 include but is not limited to incentives or supplementary work as a consequence of performance.
13 **The policy shall comply with the requirements of section 160.571.**

14 3. In no case shall the state board of education or any other state agency establish any
15 single test or group of tests as a condition or requirement for high school graduation or as a
16 requirement for a state-approved diploma.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

160.571. 1. This section shall be known and may be cited as the "Student Assessment Bill of Rights".

2. As used in this section, the following terms mean:

(1) "Adult student", a student of a public school or a public charter school who is eighteen years of age or older or who is emancipated;

(2) "Parent", a parent or legal guardian of a student of a public school or public charter school;

(3) "Statewide summative assessment", a standardized summative assessment that is identified by the department of elementary and secondary education for administration in all of the school districts and public charter schools of this state.

3. A parent or an adult student may annually choose to excuse the student from taking a statewide summative assessment by:

(1) Completing a form established by the department of elementary and secondary education as provided by subsection 4 of this section; and

(2) Submitting the completed form to the school district for the school that the student attends.

4. The department of elementary and secondary education shall establish a form to excuse a student from taking a statewide summative assessment. The form shall have at least the following:

(1) An explanation of the right of a parent or an adult student to excuse the student from taking a statewide summative assessment; and

(2) An explanation of the purpose and value of statewide summative assessments.

5. At the beginning of each school year, each school district and public charter school shall ensure that parents and adult students are provided with a notice about statewide summative assessments. The notice shall be established by the department of elementary and secondary education and shall include information about statewide summative assessments, the time frame when the statewide summative assessments most likely will be administered, and a student's or parent's right to excuse the student from taking the statewide summative assessments.

6. (1) At least thirty days prior to the administration of statewide summative assessments, a school district or public charter school shall send to parents and adult students a notice about the statewide summative assessments. The notice shall include:

(a) The purpose of the assessments and how the results of the assessments will be used;

(b) The specific days the statewide summative assessments will be administered;

(c) The amount of class time required for the statewide summative assessments;

- 37 (d) The learning targets that make up the assessments;
38 (e) The difference between good and poor performances on the assessments;
39 (f) When results of the assessments will be available to students; and
40 (g) Access to the form established as provided under subsection 4 of this section.

41 (2) Notwithstanding subdivision (1) of this subsection, the department of
42 elementary and secondary education may waive the notice requirement for a school district
43 or public charter school if a human-created disaster or a natural disaster affects the ability
44 of the school district or public charter school to administer the statewide summative
45 assessments and the statewide summative assessments shall be provided at a later date.

46 7. School districts and public charter schools shall provide supervised study time
47 for students excused from the statewide summative assessments as provided by this section.
48 The study time shall be considered instructional time.

49 8. A student who is excused from the statewide summative assessments shall not be
50 denied a high school diploma on such basis.

51 9. The results of the statewide summative assessment shall be provided to students
52 in a timely manner and in a manner that is understandable by the student.

53 10. If any item on the school accountability report card described under section
54 160.522 is affected by the number of parents and adult students who excuse students from
55 taking a statewide summative test as provided by this section, the department of
56 elementary and secondary education shall include on the school accountability report card:

- 57 (1) An indication that an item was affected by a federal law requirement;
58 (2) A brief explanation of the federal law requirement that affected the item; and
59 (3) A brief explanation of how such item would have appeared on the report card
60 if not for the federal law requirement.

61 11. (1) This section first applies to statewide summative assessments administered
62 for the 2016-17 school year.

63 (2) Notwithstanding subsection 5 of this section and subdivision (1) of this
64 subsection, a school district or public charter school is not required to ensure that parents
65 and adult students are provided with the notice described under subsection 5 of this section
66 at the beginning of the 2016-17 school year. A school district or public charter school shall
67 ensure that parents and adult students are provided with the notice described in subsection
68 5 of this section beginning with the 2017-18 school year.

161.096. 1. The state board of education shall promulgate a rule relating to student data
2 accessibility, transparency, and accountability relating to the statewide longitudinal data system.
3 This rule shall mandate that the department of elementary and secondary education do the
4 following:

5 (1) Create and make publicly available a data inventory and index of data elements with
6 definitions of individual student data fields in the student data system to include, but not be
7 limited to:

8 (a) Any personally identifiable student data required to be reported by state and federal
9 education laws; and

10 (b) Any other individual student data which has been proposed for inclusion in the
11 student data system with a statement regarding the purpose or reason for the proposed collection;

12 (2) Develop policies to comply with all relevant state and federal privacy laws and
13 policies, including but not limited to the federal Family Educational Rights and Privacy Act
14 (FERPA) and other relevant privacy laws and policies. **These policies may be applied**
15 **differently to students eighteen years of age or older.** These policies shall include, but not
16 be limited to the following requirements:

17 (a) Access to personally identifiable student data in the statewide longitudinal data
18 system shall be restricted to:

19 a. The authorized staff of the department of elementary and secondary education and the
20 contractors working on behalf of the department who require such access to perform their
21 assigned duties as required by law;

22 b. District administrators, teachers, and school personnel who require such access to
23 perform their assigned duties;

24 c. Students and their parents for their own data; and

25 d. The authorized staff of other state agencies in this state as required by law and
26 governed by interagency data sharing agreements;

27 (b) The department of elementary and secondary education shall develop criteria for the
28 approval of research and data requests from state and local agencies, researchers working on
29 behalf of the department, and the public;

30 (3) Shall not, unless otherwise provided by law and authorized by policies adopted
31 pursuant to this section, transfer personally identifiable student data;

32 (4) Develop a detailed data security plan that includes:

33 (a) Guidelines for authorizing access to the student data system and to individual student
34 data including guidelines for authentication of authorized access;

35 (b) Privacy compliance standards;

36 (c) Privacy and security audits;

37 (d) Breach planning, notification and procedures;

38 (e) Data retention and disposition policies; and

39 (f) Data security policies including electronic, physical, and administrative safeguards,
40 such as data encryption and training of employees;

41 (5) Ensure routine and ongoing compliance by the department of elementary and
42 secondary education with FERPA, other relevant privacy laws and policies, and the privacy and
43 security policies and procedures developed under the authority of this section, including the
44 performance of compliance audits;

45 (6) Ensure that any contracts that govern databases, assessments, or instructional
46 supports that include student or redacted data and are outsourced to private vendors include
47 express provisions that safeguard privacy and security, including provisions that prohibit private
48 vendors from selling student data or from using student data in furtherance of advertising, with
49 penalties for noncompliance, except to a local service provider for the limited purpose authorized
50 by the school or district whose access to student data, if any, is limited to "directory information"
51 as that term is defined in the federal regulations implementing the federal Family Educational
52 Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g; and

53 (7) Notify the governor, the president pro tempore of the senate, the speaker of the house
54 of representatives, and the joint committee on education annually of the following:

55 (a) New student data proposed for inclusion in the state student data system; and

56 (b) Changes to existing data collections required for any reason, including changes to
57 federal reporting requirements made by the U.S. Department of Education.

58 2. Quantifiable student performance data shall only include performance on locally
59 developed or locally approved assessments, including but not limited to formative assessments
60 developed by classroom teachers.

61 3. The department of elementary and secondary education shall not collect nor shall
62 school districts report the following individual student data:

63 (1) Juvenile court delinquency records;

64 (2) Criminal records;

65 (3) Student biometric information;

66 (4) Student political affiliation; or

67 (5) Student religion.

68 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
69 under the authority delegated in this section shall become effective only if it complies with and
70 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
71 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
72 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule
73 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
74 proposed or adopted after August 28, 2014, shall be invalid and void.

75 5. Each violation of any provision of any rule promulgated pursuant to this section by
76 an organization or entity other than a state agency, a school board, or an institution shall be

77 punishable by a civil penalty of up to one thousand dollars. A second violation by the same
78 organization or entity involving the education records and privacy of the same student shall be
79 punishable by a civil penalty of up to five thousand dollars. Any subsequent violation by the
80 same organization or entity involving the education records and privacy of the same student shall
81 be punishable by a civil penalty of up to ten thousand dollars. Each violation involving a
82 different individual education record or a different individual student shall be considered a
83 separate violation for purposes of civil penalties.

84 6. The attorney general shall have the authority to enforce compliance with this section
85 by investigation and subsequent commencement of a civil action, to seek civil penalties for
86 violations of this section, and to seek appropriate injunctive relief, including but not limited to
87 a prohibition on obtaining personally identifiable information for an appropriate time period.
88 In carrying out such investigation and in maintaining such civil action, the attorney general or
89 any deputy or assistant attorney general is authorized to subpoena witnesses, compel their
90 attendance, examine them under oath, and require that any books, records, documents, papers,
91 or electronic records relevant to the inquiry be turned over for inspection, examination, or audit.
92 Subpoenas issued under this subsection may be enforced pursuant to the Missouri rules of civil
93 procedure.

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